

## Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 119070  
ORIGIN STR-07

INFO OCT-01 EUR-12 EA-10 IO-13 ISO-00 STRE-00 AGRE-00  
CEA-01 CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01  
INR-10 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01  
CTME-00 AID-05 SS-15 ITC-01 TRSE-00 ICA-11 SP-02  
SOE-02 OMB-01 DOE-15 /136 R

DRAFTED BY STR/RLMATTHEISEN  
APPROVED BY STR/RLMATTHEISEN  
COM/DSTANLEY  
EB/OT/STA/JSPIRO  
TREAS/EBARBER  
AGRIC/MECHOLS  
LABOR/WRENISON

-----063499 102045Z /64

P R 102005Z MAY 78  
FM SECSTATE WASHDC  
TO USMISSION GENEVA PRIORITY  
INFO AMEMBASSY BRUSSELS  
AMEMBASSY TOKYO

LIMITED OFFICIAL USE STATE 119070

USMTN

E.O. 11652: N/A

TAGS: ETRD, MTN

SUBJECT: EC COMMISSION PAPER ON MFN/SELECTIVE SAFEGUARDS

REF: GENEVA 6192

1. PARAGRAPH 3 BELOW SETS FORTH OUR INITIAL COMMENTS ON EC  
COMMISSION PAPER. YOU MAY INFORM ABBOT OF THESE VIEWS SO HE  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 119070

CAN TAKE THEM INTO ACCOUNT IN DISCUSSING PAPER WITH THE EC  
MEMBER STATES ON MAY 12.

2. COMMISSION PAPER IS TOO WEAK IN A NUMBER OF RESPECTS  
(PERMITS UNILATERAL SELECTIVITY AND CONTAINS VERY WEAK  
SURVEILLANCE/DISPUTE SETTLEMENT PROVISIONS). ON THE OTHER  
HAND, THE REVISED JAPANESE PAPER GIVEN TO U.S. DEL ON

MAY 3 BY NOGAMI IS TOO TIGHT IN SOME RESPECTS, PARTICULARLY IN CONSENSUAL SELECTIVITY. HOWEVER, THE TWO PAPERS TOGETHER WITH THE 6 POINT U.S. POSITION COULD PROVIDE A USEFUL BASIS FOR A TRILATERAL DISCUSSION. PLEASE TRY TO ARRANGE SUCH A SESSION ASAP (DURING WEEK OF MAY 15 IF POSSIBLE).

3. FOLLOWING ARE INITIAL COMMENTS ON EC PAPER TRANSMITTED REFTEL:

(A) SOME PARTS OF THE PAPER ARE AMBIGUOUS OR REFER TO SUCH MATTERS AS "DOMESTIC PROCEDURES," "INJURY CRITERIA" AND COMPREHENSIVENESS OF THE SYSTEM (TYPES OF MEASURES TO BE COVERED) IS NOT CLEAR. THESE POINTS CAN BE TAKEN UP IN TRILATERAL DISCUSSIONS.

(B) IN PARA 2, FOURTH POINT, WE AGREE THAT THE COMMITTEE SHOULD PERFORM A CONCILIATORY FUNCTION. BUT WE DO NOT AGREE THAT THE COMMITTEE SHOULD NOT ISSUE DECISIONS OR JUDGMENTS ON QUESTIONS OF LEGALITY OR THE RELATIONSHIP BETWEEN ACTIONS TAKEN AND THE OBLIGATIONS IN THE CODE. THERE MAY, HOWEVER, BE SOME SCOPE FOR NON-BINDING RECOMMENDATIONS (PERHAPS IN RELATION TO CONSTRAINTS ON RETALIATION).

(C) PARA 3(I) SEEMS TO PRECLUDE "SUBSTANTIVE" BILATERAL DISCUSSIONS WHEN MFN SAFEGUARD ACTION IS TAKEN. WE WOULD LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 119070

NOT AGREE.

(D) PARA 3(II) MENTIONS CORESPONSIBILITY OF EXPORTING AND IMPORTING COUNTRIES IN SAFEGUARD ACTIONS. IT IS NOT CLEAR WHETHER AND HOW EC WISHES THIS CONCEPT REFLECTED IN THE CODE. WE HAVE RESERVATIONS.

(E) PARA 3(III) SUGGESTS THAT A PROCEDURE FOR INTERNATIONAL REVIEW OF ALL CASES ON REQUEST WOULD BE BALANCED BY THE ULTIMATE RIGHT OF THE IMPORTING COUNTRY TO TAKE A MEASURE CONSIDERED NECESSARY AND TO FACE RETALIATION. WE AGREE THAT A COUNTRY SHOULD HAVE THE ULTIMATE RIGHT TO TAKE MFN ACTION SUBJECT TO RETALIATION, BUT NOT UNILATERAL SELECTIVE ACTION.

(F) WE HAVE RESERVATIONS ABOUT THE TWO TRACK FORMAT WHICH CAN BE DISCUSSED LATER. HOWEVER, UNDER THE EC FORMULATED TRACK I THE PROCESS SHOULD BEGIN WITH A NATIONAL INJURY DETERMINATION.

(G) IN "CRITICAL CIRCUMSTANCES, "NOTIFICATION SHOULD PRECEDE ACTION (AS ARTICLE XIX PRESENTLY PROVIDES) RATHER

THAN BEING GIVEN SIMULTANEOUS WITH APPLICATION OF THE MEASURE.

(H) IN CASE OF DISAGREEMENT AMONG THE PARTIES IN GLOBAL ACTIONS, THE QUESTIONS OF RETALIATION AND COMMITTEE ACTION WILL HAVE TO BE THOROUGHLY DISCUSSED.

(I) UNDER TRACK II, PROCESS SHOULD BEGIN WITH NATIONAL INJURY DETERMINATION. MORE INFORMATION WOULD HAVE TO BE PROVIDED IN NOTIFICATION OF SELECTIVE THAN IN NOTIFICATION OF MFN ACTION.

(J) WE DO NOT ENVISAGE UNILATERAL APPLICATION OF SELECTIVE MEASURES IN CRITICAL CIRCUMSTANCES, ALTHOUGH A COUNTRY LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 119070

WOULD RETAIN THE RIGHT TO APPLY A UNILATERAL MFN MEASURE (SUBJECT TO RETALIATION) AND, PURSUANT TO APPROPRIATE PROCEDURES, INVOLVING COMMITTEE ACTION, WOULD HAVE THE POSSIBILITY OF CONVERTING THE MEASURE SUBSEQUENTLY TO A SELECTIVE BASIS.

(K) THE FIRST PARAGRAPH IN THE EC PAPER UNDER "PROCEDURE AFTER ACTION TAKEN" (TRACK II) IS NOT ENTIRELY CLEAR. AS INDICATED ABOVE, WE DO NOT AGREE TO UNILATERAL SELECTIVITY. IF THE PARTIES DO NOT AGREE, THE PARTY WISHING TO TAKE SELECTIVE ACTION SHOULD REFER THE MATTER TO THE COMMITTEE OF SIGNATORIES. WE WOULD NOT AGREE THAT THE PARTY WISHING TO TAKE SELECTIVE ACTION COULD TAKE SUCH ACTION IF OPPOSED BY THE COMMITTEE.

(L) THE PROCEDURE FOR RESOLVING DISAGREEMENTS WHEN A PARTY WISHES TO TAKE SELECTIVE ACTION NEEDS TO BE DISCUSSED. IN GENERAL, THE EC PAPER DOES NOT FOLLOW THE U.S. POSITION ON SURVEILLANCE AND DISPUTE SETTLEMENT FOR CODES IN THE MTN. VANCE

LIMITED OFFICIAL USE

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** PAPERS, MFN, RULES, COMMISSIONS, REGIONAL ORGANIZATIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 10 may 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1978STATE119070  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** RLMATTHEISEN  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D780199-0101  
**Format:** TEL  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1978/newtext/t19780573/aaaacjtp.tel  
**Line Count:** 156  
**Litigation Code IDs:**  
**Litigation Codes:**  
**Litigation History:**  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Message ID:** 653f30a1-c288-dd11-92da-001cc4696bcc  
**Office:** ORIGIN STR  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 78 GENEVA 6192  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 05 may 2005  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** N/A  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 2733318  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** EC COMMISSION PAPER ON MFN/SELECTIVE SAFEGUARDS  
**TAGS:** ETRD, MTN  
**To:** GENEVA USMTN  
**Type:** TE  
**vdkgvwkey:** odbc://SAS/SAS.dbo.SAS\_Docs/653f30a1-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014